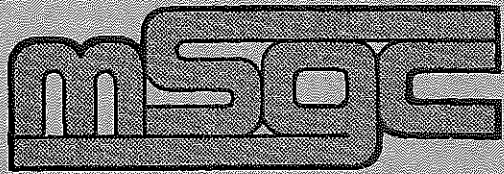


Minnesota Sentencing Guidelines Commission



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REPORT TO THE LEGISLATURE

January, 2000

This information will be made available in an alternative format upon request.

The total cost of salaries, printing, and supplies incurred in development and preparation of this report was \$2,000 (reported as required by Minn. Stat. § 3.197).

MINNESOTA SENTENCING GUIDELINES COMMISSION

University National Bank Building

200 University Avenue West

Suite 205

St. Paul, Minnesota 55103

Voice: (651) 296-0144

FAX: (651) 297-5757

MN Relay Service TTY: 1-800-627-3529 (ask for 296-0144)

Web Site: www.msgc.state.mn.us

Email: sentencing.guidelines@state.mn.us

Members

Sheryl Ramstad Hvass, Chair and Commissioner of Corrections

Russell A. Anderson, Justice, Minnesota Supreme Court

Laurie Dudero, Citizen Representative

Mary T. Howard, Citizen Representative

Bill Ingebrigtsen, Law Enforcement Representative, Douglas County

Roger M. Klaphake, Judge, Court of Appeals

Robert Knickerbocker, Probation Officer Representative, Anoka County

Raymond Schmitz, County Attorney, Olmsted County

Scott Swanson, Public Defender Representative, Officer of State Public Defender

Edward S. Wilson, District Court Judge, Second Judicial District

Kristine Zajac, Citizen Representative

Staff

Debra Dailey, Executive Director

Susan Carter, Research Analysis Specialist, Senior

Cheryl DeWolfe, Office and Administrative Specialist

Jodi Ehlenz, Administrator

Jill Payne, Research Analyst Intermediate

Stephen Schele, Employee Development Specialist II

Scott VanCleave, Research Analyst

Anne Wall, Research Analysis Specialist

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I. BACKGROUND INFORMATION

Minnesota adopted a sentencing guidelines system effective May 1, 1980. The guidelines were created to ensure uniform and determinate sentencing. The goals of the guidelines are: (1) To enhance public safety; (2) To promote uniformity in sentencing so that offenders who are convicted of similar types of crimes and have similar types of criminal records are similarly sentenced; (3) To establish proportionality in sentencing by emphasizing a "just deserts" philosophy. Offenders who are convicted of serious violent offenses, even with no prior record, those who have repeat violent records, and those who have more extensive nonviolent criminal records are recommended the most severe penalties under the guidelines; (4) To provide truth and certainty in sentencing; and (5) To enable the Legislature to coordinate sentencing practices with correctional resources.

A sentencing guidelines system provides the legislature and the state with a structure for determining and maintaining rational sentencing policy. Through the development of the sentencing guidelines, the legislature determines the goals and purposes of the sentencing system. Guidelines represent the general goals of the criminal justice system and indicate specific appropriate sentences based on the offender's conviction offense and criminal record.

Judges may depart from the presumptive guideline sentence if the circumstances of the case are substantial and compelling. The judge must state the reasons for departure and either the prosecution or the defense may appeal the pronounced sentence. While the law provides for offenders to serve a term of imprisonment equal to two-thirds of their total sentence and a supervised release period equal to up to one-third of their total sentence if there are no disciplinary infractions, the sentence length is fixed. There is no mechanism for "early release due to crowding" that other states have been forced to accept because of disproportionate and overly lengthy sentences.

Judges pronounce sentences and are accountable for sentencing decisions. Prosecutors also play an important role in sentencing. The offense that a prosecutor charges directly affects the recommended guideline sentence if a conviction is obtained.

The Minnesota Sentencing Guidelines Commission is responsible for maintaining the sentencing guidelines. There are 11 members on the Commission who represent the criminal justice system and citizens of the State of Minnesota. Six new members were appointed this year to the Commission by Governor Ventura and the Commissioner of Corrections, Sheryl Ramstad-Hvass was named Chair. The Commission meets monthly and all meetings are open to the public. The Minnesota Sentencing Guidelines and Commentary, meeting agendas, meeting minutes and many of the Commission's documents are available on the Commission's web site (www.msgc.state.mn.us) or upon request. The email address is: sentencing.guidelines@state.mn.us.

A constant flow of information is gathered on sentencing practices and made available to the Commission, the legislature, and others interested in the system. The Commission modifies the guidelines, when needed, to take care of problem areas and legislative changes. This report outlines the work of the Commission in 1999.

II. GUIDELINES MODIFICATIONS - EFFECTIVE AUGUST 1, 1999

A. RANKING OF NEW OR AMENDED CRIMES

1. *The Commission adopted the proposal to rank the following new or amended crimes passed by the 1999 Legislature in Section V. OFFENSE SEVERITY REFERENCE TABLE as follows:*

Severity Level III

Identity Theft - 609.527, subd. 3 (4)

Severity Level II

Check Forgery (\$204 \$251 - \$2,500) - 609.631, subd. 4 (3) (a)
Counterfeited Intellectual Property - 609.895, subd. 3 (a)
Dishonored Check (over \$500) - 609.535, subd. 2a (1)
Identity Theft - 609.527, subd. 3 (3)

Severity Level I

Check Forgery (\$200 \$250 or less) - 609.631, subd. 4 (3) (b)
Counterfeited Intellectual Property - 609.895, subd. 3 (b)

2. *The Commission considered the changes made by the 1999 Legislature to the following crimes and adopted the proposal to continue the existing severity level rankings in Section V. OFFENSE SEVERITY REFERENCE TABLE, unless otherwise noted above:*

Adulteration Crimes; Arson in the First Degree; Controlled Substance Crimes; Financial Transaction Card Fraud; Theft Crimes; and Unlawful Acts Involving Liquor

3. *The Commission adopted the proposal to place or continue to place the following crime on the Unranked Offense List in Section II.A.03. of the Commentary after considering the changes made by the 1999 Legislature:*

Adulteration - 609.687, subd. 3 (3)
Killing or harming a police public safety dog - 609.596, subd. 1
Prohibiting promotion of minors to engage in obscene works - 617.246; 617.247
Racketeering, criminal penalties (RICO) - 609.904

B. ADOPTED MODIFICATIONS TO ADDRESS OTHER LEGISLATIVE CHANGES

1. *The Commission adopted the proposal to amend the language in Section II.C. Presumptive Sentence to address a law change passed by the 1999 Legislature regarding dispositions for a felony level offense under M.S. §152.18. The adopted language below is consistent with the new statutory language:*

C. Presumptive Sentence: The offense of conviction determines . . .

Similarly, when the current conviction offense is a severity level VI drug crime and there was a previous ~~adjudication of guilt conviction~~ or a disposition under section 152.18, subd. 1 for a felony violation of Chapter 152 or a felony-level attempt or conspiracy to violate Chapter 152, or ~~was convicted~~ received a similar disposition elsewhere for conduct that would have been a felony under Chapter 152 if committed in Minnesota (See Minn. Stat. § 152.01, subd. 16a) before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid, or the mandatory minimum, whichever is longer. The policy regarding previous dispositions under section 152.18 applies only if the previous disposition occurred on or after August 1, 1999.

2. *The Commission amended the language in Section II.F. Concurrent/Consecutive Sentences, to be consistent with a law change passed by the 1999 Legislature that would make Fleeing a Police Officer in a Motor Vehicle a crime for which an offender can be prosecuted and punished in addition to any other crime committed by the defendant as part of the same conduct and would provide that a judge can impose a consecutive sentence without departing from the sentencing guidelines:*

Permissive Consecutive Sentences

Except when consecutive sentences are presumptive, consecutive sentences are permissive (may be given without departure) only in the following cases:

1. A current felony conviction for a crime against a person may be sentenced consecutively to a prior felony sentence for a crime against a person which has not expired or been discharged; or
2. Multiple current felony convictions for crimes against persons may be sentenced consecutively to each other; or
3. A current felony conviction for escape from lawful custody, as defined in Minn. Stat. § 609.485, when the offender did not escape from an executed prison sentence, may be sentenced consecutively to the sentence for the offense for which the offender was confined; or

4. A current felony conviction for a crime committed while on felony escape from lawful custody, as defined in Minn. Stat. § 609.485, from a nonexecuted felony sentence may be sentenced consecutively to the sentence for the escape or for the offense for which the offender was confined; or:
5. A current felony conviction for Fleeing a Peace Officer in a Motor Vehicle as defined in Minn. Stat. §609.487.

Consecutive sentences are permissive under the above criteria numbers 1- 4 only when the presumptive disposition for the current offense(s) is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C. In addition, consecutive sentences are permissive under 1. above, involving a current felony conviction for a crime against a person and a prior felony sentence for a crime against a person which has not expired or been discharged, only when the presumptive disposition for the prior offense(s) was commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C. If the judge pronounces a consecutive stayed sentence in these circumstances, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure if the offense meets one of the above criteria. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.

Consecutive sentences are always permissive under the above criteria number 5.

C. ADOPTED MODIFICATIONS TO CLARIFY OR CORRECT TECHNICAL ERRORS

1. ***The Commission adopted the following language change to clarify that all Fleeing a Peace Officer in a Motor Vehicle offenses are felonies effective August 1, 1997:***

II.B. 301.....

The offense of fleeing a peace officer in a motor vehicle (Minn. Stat. § 609.487) is deemed a non traffic offense. Offenders given a prior misdemeanor or gross misdemeanor sentence for this offense shall be assigned one unit in computing the criminal history. Effective for crimes occurring on or after August 1, 1997, all fleeing a peace officer in a motor vehicle offenses are felonies. (Offenders with a prior felony sentence for fleeing a peace officer in a motor vehicle shall be assigned the appropriate weight for each sentence subject to the provisions in II.B.1.).

2. ***The Commission adopted the following language changes to Section II.C. Presumptive Sentence to clarify that the presumptive consecutive policy for assaults committed by state prison inmates applies to those inmates who are actually confined in state facilities:***

II.C. Presumptive Sentence:

.....

In addition, the presumptive disposition for an escapes from an executed sentences and for a felony assaults committed by an inmate serving an executed term of imprisonment ~~prison-sentences~~ is Commitment to the Commissioner of Corrections. It is presumptive for these offenses to be sentenced consecutively to the offense for which the inmate was confined and the presumptive duration is determined by the presumptive consecutive policy (See II.F. Presumptive Consecutive Sentences).

3. ***The Commission adopted the following language changes to Section II.F. Concurrent/Consecutive Sentences to clarify that offenses committed while on supervised release would fall under the presumptive consecutive policy:***

Presumptive Consecutive Sentences

Consecutive sentences are presumptive ~~in the following cases:~~

1. ~~When the conviction is for escape from lawful custody, as defined in Minn. Stat. 609.485 and the offender escaped from an executed prison sentence;~~
or
2. ~~When the conviction is for a crime committed by an inmate offender serving or on supervised release serving, or on escape status from, an executed prison sentence.~~

Consecutive sentences are presumptive under the above criteria only when the presumptive disposition for the current offense(s) is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C. The presumptive disposition for an escapes from an executed sentences or for a felony assaults committed by an inmate serving an executed term of imprisonment ~~prison-sentence~~, however, is always commitment to the Commissioner of Corrections.

Under the circumstances above, it is presumptive for the sentence to be consecutive to the sentence ~~for which the inmate was confined~~ being served by the offender at the time the escape or other new offense was committed. A concurrent sentence under these circumstances constitutes a departure from the presumptive sentence except if the total time to serve in prison would be longer if a concurrent sentence is imposed in which case a concurrent sentence is presumptive. A special, nonexclusive, mitigating departure factor may be used by the judge to depart from the consecutive presumptive and impose a

concurrent sentence: there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime.

Comment

II.F.01.

For felony convictions committed while an offender is serving, or on escape status from, an executed prison sentence, it is presumptive to impose the sentence for the current offense consecutive to the sentence the offender was serving for which the inmate was confined at the time the new offense was committed. As defined in M.S. § 244.101, "executed prison sentence" includes both the term of imprisonment and period of supervised release. The guidelines created a presumption against the use of consecutive sentences in all other cases not meeting the guideline criteria. If consecutive sentences are used in such cases, their use constitutes a departure from the guidelines and written reasons are required. . . .

II.F.03. *The presumptive disposition for an escapes from an executed sentences or a felony assaults committed by an inmate serving an executed term of imprisonment ~~prison sentence~~ is commitment to the Commissioner of Corrections. It is presumptive for sentences for these offenses to be consecutive to the sentence ~~for which the inmate was confined~~ serving at the time the new offense was committed. Consecutive sentences are also presumptive for a crime committed by an inmate serving, or on escape status from, an executed prison sentence if the presumptive disposition for the crime is commitment to the Commissioner of Corrections as determined under the procedures outlined in section II.C..*

- 4. The Commission adopted changes to clarify the statutory cite for Theft over \$35,000 to make it consistent with the statutory reference:**

Severity Level VI

Theft over \$35,000 - 609.52, subd. 2 (3), (4), (15), & (16) with 609.52, subd. 3(1)

- 5. A correction was made to the statutory reference for False Representations under M.S. §268.182 on the Theft Offense List. The offense was renumbered from M.S. §268.18, subd. 3 by the 1997 Legislature:**

Theft Offense List....

False Representations
~~268.18, subd. 3~~ 268.182

III. OTHER GUIDELINES MODIFICATIONS - EFFECTIVE AUGUST 1, 2000, AFTER REVIEW BY THE 2000 LEGISLATURE

- 1. The Commission adopted the proposal to rank the gross misdemeanor level crime of escape at severity level 1 if it is committed with violence or the threat of violence. The use or threat of violence raises the level of this crime to a felony with a statutory maximum penalty of two years. This crime had been previously overlooked by the Commission and therefore requires Legislative review.*

Severity Level 1

Escape from Custody - 609.485, subd. 4 (a) (2) & (3)

- 2. The Commission adopted the proposal to place on the unranked offense list a crime which has been inadvertently unranked, M.S. § 116C.835; a crime dealing with the willful or negligent violation of the Midwest Interstate Low-Level Radioactive Waste Compact with a statutory maximum penalty of two years. This crime had been previously overlooked by the Commission and therefore requires Legislative review.*

Midwest interstate low-level radioactive waste compact violation - 116C.835

IV. UPCOMING PROPOSALS AND ISSUES CURRENTLY BEING STUDIED BY THE COMMISSION

A. BIAS MOTIVATION AS AN AGGRAVATING FACTOR IN THE SENTENCING GUIDELINES

The Commission is moving forward a proposal to add "bias motivation" as an aggravating factor to the nonexclusive list of aggravating departure factors in the Minnesota Sentencing Guidelines and Commentary. This proposal was presented to the Commission by the Attorney General's Office in November, 1999, and is supported by many other organizations including: Jewish Community Relations Council, Joint Religious Legislative Coalition, Minnesota Council of Churches, American Muslim Council - MN Chapter, American Jewish Committee, League of MN Human Rights Commissions, Minnesota Chicano/Latino Affairs Council, State Council on Black Minnesotans, and Outfront Minnesota.

Currently, there are several crimes, including low level assault, criminal damage to property, and harassment, where the penalty is enhanced from a gross misdemeanor to a felony level if the offense is motivated by bias. There are no statutory enhancements for crimes that are motivated by bias when the penalties are already at the felony level. Adding the "bias motivation" aggravating factor to the sentencing guidelines will make it clear to judges that when this factor exists, the sentence can be aggravated to ensure a more proportional sentence that takes into account the more widespread harm resulting from bias crimes. An example was given at the November Commission meeting of comparing the harm resulting from an overly exuberant university student who breaks the windows of a store on campus and writes "Beat Iowa" and the harm to the community and individual victim if a student targets the store because it is owned by an African American and writes "KKK" on the wall.

The Commission is aware of a constitutional challenge to enhancements for bias crimes that is currently being considered by the U.S. Supreme Court, but it involves statutory provisions and not discretionary departure factors. The Commission believes that it is important to continue to move forward to implement a change to the sentencing guidelines and is currently developing the actual proposed language changes to the Minnesota Sentencing Guidelines and Commentary to add "bias motivation" as an aggravating factor. The proposed language will be open for comment at the summer of 2000 public hearing and the U.S. Supreme Court will have ruled by that time. If the proposed language is adopted after the public hearing, the new departure factor will go into effect for crimes committed on or after August 1, 2000. However, because the list of aggravating factors in the sentencing guidelines is nonexclusive, judges could use this reason to depart at any time for any case believed appropriate.

B. SENTENCING POLICY AND PRACTICES FOR DRUG OFFENDERS

The Commission is currently examining the sentencing policies and practices for drug offenders. The Commission has not developed any specific proposals but below are some of the issues they are examining:

➤ **Departure rates for drug offenders have been consistently high over time in the direction of less severe sentences than called for under the guidelines.**

- ◆ Among drug offenders sentenced in 1998 where the guidelines called for prison, 41% received probation instead (down from 55% in 1997).
- ◆ Among drug offenders actually sentenced to prison in 1998, 32% received less time than that called for by the guidelines (down from 36% in 1997).
- ◆ While these departure rates are down from what they were in 1997, they are still as high as they were six years ago in 1993.

Questions:

1. *Why are departure rates so high? Do practitioners believe the recommended sentences under the guidelines are too harsh for most drug offenders?*
2. *What can the Commission do to help restore greater compliance with the presumptive sentences?*

➤ **Persons of color are disproportionately represented among sentenced felons, particularly in the population of sentenced drug offenders and among those drug offenders sentenced to prison.**

- ◆ Among drug offenders sentenced in 1998, 47% were persons of color compared to 38% of non-drug offenders.
- ◆ Among drug offenders sentenced to prison in 1998, 59% were persons of color compared to 47% of non-drug offenders.
- ◆ Among white drug offenders sentenced in 1998, 17% were sent to prison compared to 27% of drug offenders of other races.
- ◆ The Commission will review and consider the final recommendations of the Byrne Advisory Committee and also closely follow the work of the Council on Crime and Justice as they embark on a comprehensive study of race, crime and the criminal justice system.

Questions:

1. *Are these racial differences due in part to differences based on the type of drug? What about differences in criminal history?*
2. *Is there anyway to evaluate how diversion is affecting conviction rates by race breakdowns?*

➤ **Current drug laws are far more detailed than they were prior to 1989 and differentiate penalties on the basis of the type and amount of drug and whether possessed or sold.**

- ◆ Minnesota has some of the most narrowly defined drug laws in the country with some of the lowest thresholds for the more serious offenses (1st, 2nd & 3rd degree).
- ◆ Minnesota's recommended sentence under the guidelines for the 5 degrees of drug crimes range from probation to 86 months in prison for a first time offender.
- ◆ While the range of possible sentences under the guidelines is quite wide depending on the conviction offense, it is unclear whether the conviction offense truly identifies the seriousness of the underlying behavior of drug offenders; i.e., profiteers vs. the user/seller and addicts.
- ◆ Since 1989, the drug laws are potentially redundant with respect to some of the current aggravating departure factors regarding major drug dealers specified in the Minnesota Sentencing Guidelines and Commentary.

Questions:

1. *Do the current drug laws adequately differentiate those who deal drugs for profit from those who deal to support their drug use? Is it appropriate to differentiate these types of offenders for sentencing purposes?*
2. *Are there other important criteria to look at when determining the level of severity for drug crimes that are currently not specified in statute?*
3. *Are there other ideas for structuring the recommended sentences under the guidelines that are not based solely on the degree of the offense?*
4. *Should the current specified aggravating departure factors regarding major drug dealers stated in the Minnesota Sentencing Guidelines and Commentary be eliminated or restricted when the elements are redundant with the statutory definition of the conviction offense?*

Y The Hennepin County Drug Court has a different philosophical approach to sentencing drug offenders than the sentencing guidelines. In Drug Court the focus is on immediate treatment rather than consistency and proportionality in sentencing.

- ◆ The volume of drug offenders prosecuted in Hennepin County increased dramatically between 1996 and 1997 when Drug Court was implemented. The 1998 sentencing data show there were dramatic increases in the number of sentenced drug offenders across the rest of the state as well. Consequently, the number of drug offenders in prison will continue to increase due both to more initial commitments to prison and due to technical revocations of the growing population of drug offenders on probation.
- ◆ The quick prosecution and sentencing of offenders in drug court makes it difficult to prepare in time for sentencing an accurate and complete sentencing worksheet. Therefore, the sentencing judge is not likely to be aware of the recommended sentence under the guidelines.

Questions:

1. *Is there a way to recognize the philosophy of the drug court within the sentencing guidelines policies, particularly the goals of treatment?*
2. *How can the Commission address the problems associated with incomplete information about the recommended sentence under the guidelines at the time of sentence?*
3. *Are there proportionality concerns raised by the trend toward more of the state's prison resources being needed for drug offenders?*
4. *Should the Commission develop options for how to address the potential growing population of drug offenders who technically violate the conditions of probation?*

The Commission will continue to address these questions and issues and present a more comprehensive report in the future.

COUNTY ATTORNEY REPORTS ON CRIMINAL CASES INVOLVING FIREARMS

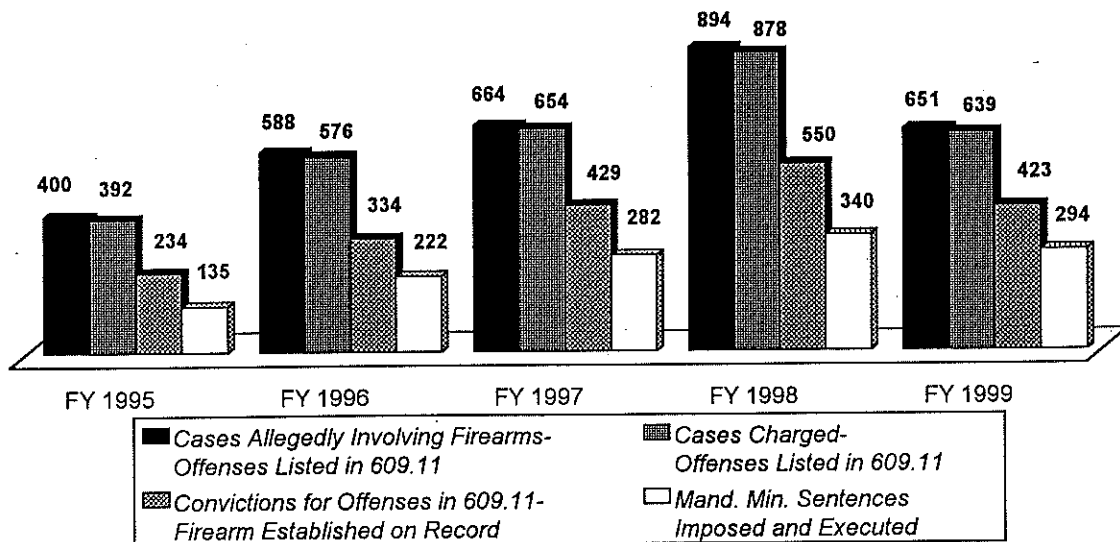
The 1994 Legislature passed a law (M.S. § 609.11, subdivision 10) directing county attorneys to collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm: 1) Whether the case was charged or dismissed; 2) Whether the defendant was convicted of the offense or a lesser offense; 3) Whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court. This information is to be forwarded to the sentencing guidelines commission no later than July 1 of each year, beginning on July 1, 1995.

Pursuant to M.S. § 244.09, subdivision 14, the sentencing guidelines commission is required to include in its annual report to the legislature a summary and analysis of the reports received from county attorneys. Memorandums describing the ongoing mandate by the legislature along with forms (See Appendix) on which to report their county's cases are distributed to Minnesota's county attorneys. Although commission staff clarifies inconsistencies in the summary data, the information received from the county attorneys is reported directly as provided.

For FY 1999, the commission received information from eighty-six of Minnesota's eighty-seven counties. The county for which the commission did not receive data was included in the FY 1998 summary. At that time, they reported zero cases involving firearms.

Figure 1 below displays a historical summary of cases since the mandate began. The data in FY 1999 show a decrease in volume from FY 1998. The total number of cases in which the defendant allegedly committed an offense listed in subdivision 9 while possessing or using a firearm decreased to 651 cases in FY 1999 from 894 cases in FY 1998, a 27 percent decrease in volume. In 40 counties there was a decrease in the number of cases. In 29 counties there was an increase. In 17 counties the case volume remained the same.

Figure 1 Historical Case Summary



Much of the drop in overall cases appears to be due to volume decreases in the two counties, Hennepin and Ramsey, which have the majority of the cases reported in the state. In FY 1998, Hennepin County reported 411 cases involving firearms whereas in FY 1999 they reported 221 cases (a decrease of 46 percent). In FY 1998, Ramsey County reported 140 cases whereas in FY 1999 they reported 114 cases (a decrease of 19 percent).

Figures 2 through 5 summarize statewide information for FY 1999. Tables providing FY 1999 information by individual county are included in the appendix.

FIGURE 2 **TOTAL NUMBER CASES ALLEGEDLY INVOLVING FIREARMS**
OFFENSES LISTED IN §609.11, SUBD. 9

- *In FY 1999, prosecutors charged offenders in 98 percent of the cases allegedly involving firearms. This figure has remained constant since the mandate began.*

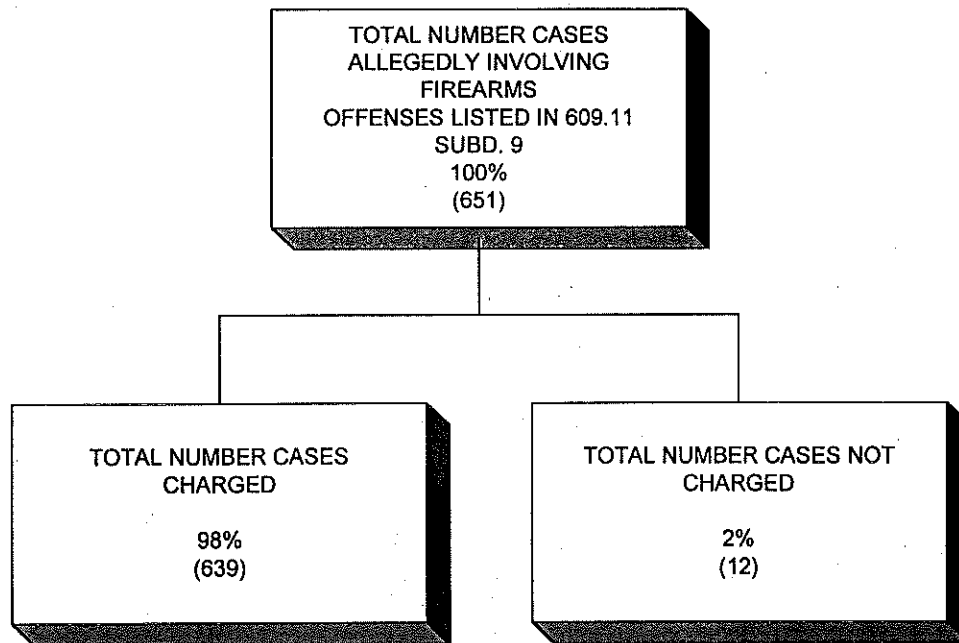
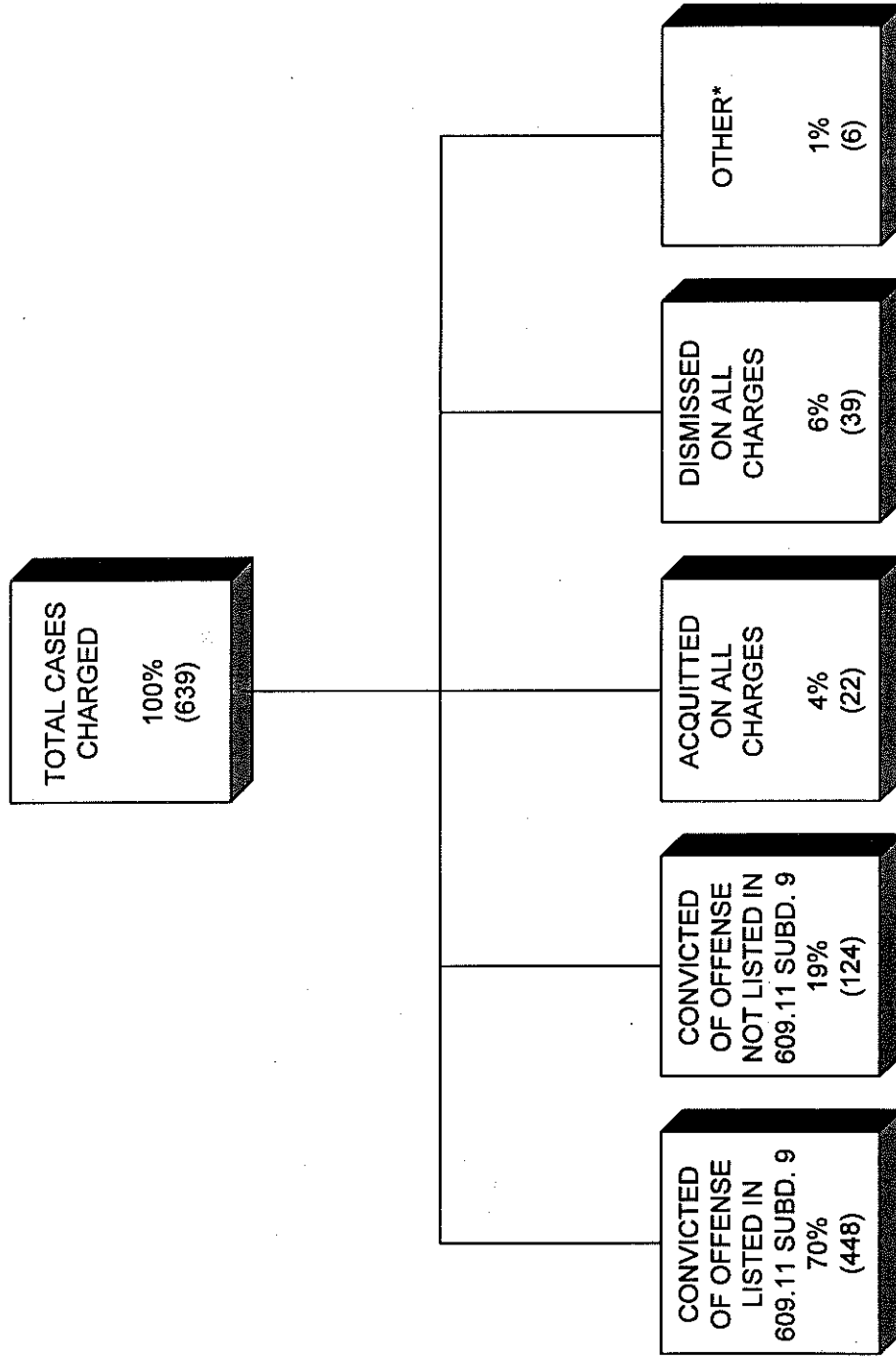


FIGURE 3

OFFENSES CHARGED - CASE OUTCOME

- Among those cases charged, 70 percent were convicted of an offense listed in § 609.11, subdivision 9. This figure was higher than in FY 1998 when it was 67 percent.



*OTHER CASE OUTCOME (e.g., Death, Stay of Adjudication)

CONVICTIONS FOR OFFENSES LISTED IN §609.11, SUBD. 9

FIGURE 4

FIREARM ESTABLISHED ON THE RECORD

- There were 448 convictions for offenses listed in §609.11, Subd. 9. In 94 percent of the cases, a firearm was established on the record. The same figure was recorded in FY 1998.

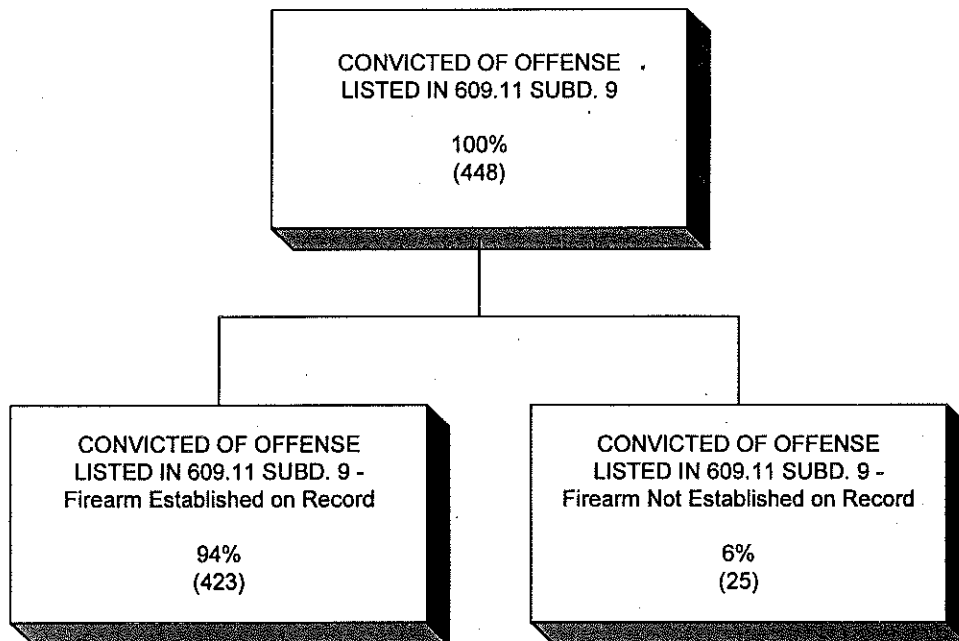
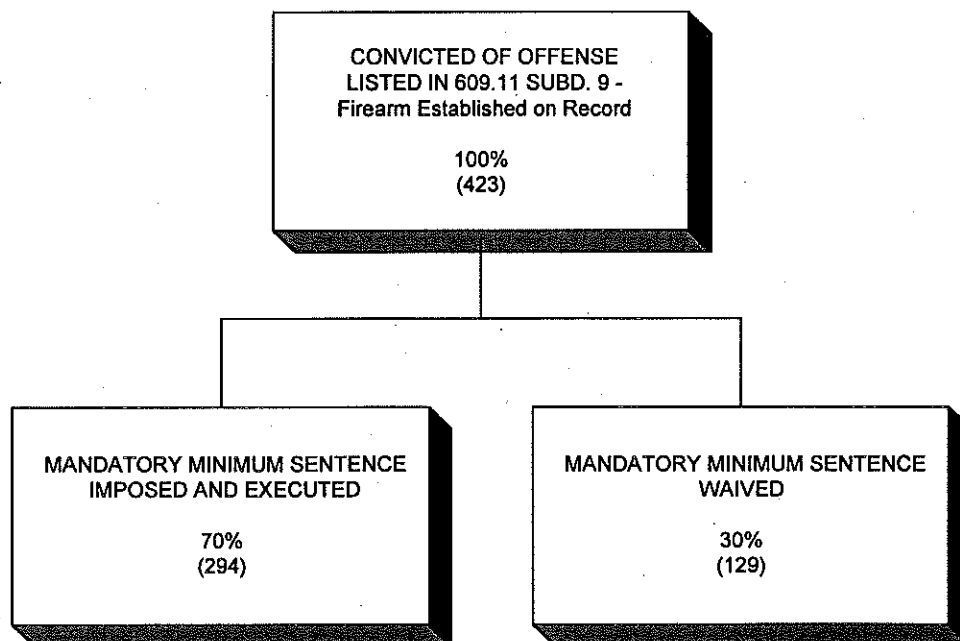


FIGURE 5

MANDATORY MINIMUM SENTENCES IMPOSED AND EXECUTED

- A mandatory minimum sentence was imposed and executed in 70 percent of the cases where it was required. This figure increased from 62 percent recorded in FY 1998 and 66 percent in both FY 1996 and FY 1997.



Appendix

COUNTY ATTORNEY REPORTS ON CRIMINAL CASES INVOLVING FIREARMS BY COUNTY

County Attorney Report on Criminal Cases Involving Firearms

Cases Allegedly Involving Firearms - Offenses Listed in § 609.11, Subd. 9
Cases Disposed from July 1, 1998 to July 1, 1999

County	Cases Allegedly Involving Firearms - Offenses Listed in §609.11	Cases Not Charged	Cases Charged
Aitkin	5	0	5
Anoka	28	3	25
Becker	5	0	5
Beltrami	0	0	0
Benton	5	0	5
Big Stone	0	0	0
Blue Earth	8	1	7
Brown	0	0	0
Carlton	2	0	2
Carver	2	0	2
Cass	15	0	15
Chippewa	1	0	1
Chisago	2	0	2
Clay	5	0	5
Clearwater	4	0	4
Cook	1	0	1
Cottonwood	1	0	1
Crow Wing	4	2	2
Dakota	27	0	27
Douglas	1	0	1
Faribault	3	0	3
Fillmore	0	0	0
Freeborn	0	0	0
Goodhue	4	0	4
Grant	0	0	0

County	Cases Allegedly Involving Firearms - Offenses Listed in §609.11	Cases Not Charged	Cases Charged
Hennepin	221	0	221
Houston	0	0	0
Hubbard	3	0	3
Isanti	6	0	6
Itasca	12	0	12
Jackson	0	0	0
Kanabec	0	0	0
Kandiyohi	5	0	5
Kittson	2	0	2
Koochiching	3	0	3
Lac Qui Parle	0	0	0
Lake	0	0	0
Lake of the Woods	0	0	0
LeSueur	0	0	0
Lincoln	1	0	1
Lyon	4	0	4
McLeod	1	0	1
Mahnomen	2	0	2
Marshall	0	0	0
Martin	4	0	4
Meeker	0	0	0
Mille Lacs	2	0	2
Morrison	5	0	5
Mower	1	0	1
Murray	1	0	1
Nicollet	3	1	2
Nobles	0	0	0
Norman	1	0	1
Olmsted	22	0	22
Otter Tail	4	0	4
Pennington	3	0	3
Pine	2	0	2

County	Cases Allegedly Involving Firearms - Offenses Listed in §609.11	Cases Not Charged	Cases Charged
Pipestone	1	0	1
Polk	8	3	5
Pope	0	0	0
Ramsey	114	0	114
Red Lake	0	0	0
Redwood	1	0	1
Renville	3	0	3
Rice	9	0	9
Rock	1	0	1
Roseau	1	0	1
St. Louis	25	1	24
Scott	3	0	3
Sherburne	5	0	5
Sibley	0	0	0
Stearns	11	0	11
Steele	0	0	0
Stevens	1	0	1
Swift	0	0	0
Todd	2	1	1
Traverse	0	0	0
Wabasha	2	0	2
Wadena	5	0	5
Waseca	1	0	1
Washington	20	0	20
Watonwan	0	0	0
Wilkin	0	0	0
Winona	4	0	4
Wright	0	0	0
Yellow Medicine	3	0	3
Total	651	12	639

County Attorney Report on Criminal Cases Involving Firearms

Offenses Charged - Case Outcome Cases Disposed from July 1, 1998 to July 1, 1999

County	Total Number of Cases Charged	Convicted of Offense Listed in §609.11, Subd. 9		Conviction Offense Not Listed in M.S. § 609.11	Acquitted on all Charges	Dismissed on all Charges	Other
		Firearm Established	Firearm Not Established				
Aitkin	5	0	4	0	0	1	0
Anoka	25	17	0	7	0	0	1
Becker	5	4	0	0	0	1	0
Beltrami	0	0	0	0	0	0	0
Benton	5	2	0	3	0	0	0
Big Stone	0	0	0	0	0	0	0
Blue Earth	7	6	0	1	0	0	0
Brown	0	0	0	0	0	0	0
Carlton	2	1	0	1	0	0	0
Carver	2	2	0	0	0	0	0
Cass	15	5	0	7	0	2	1
Chippewa	1	0	0	1	0	0	0
Chisago	2	2	0	0	0	0	0
Clay	5	4	0	1	0	0	0
Clearwater	4	1	0	3	0	0	0
Cook	1	1	0	0	0	0	0
Cottonwood	1	1	0	0	0	0	0
Crow Wing	2	1	0	0	0	1	0
Dakota	27	27	0	0	0	0	0
Douglas	1	1	0	0	0	0	0
Faribault	3	3	0	0	0	0	0
Fillmore	0	0	0	0	0	0	0
Freeborn	0	0	0	0	0	0	0
Goodhue	4	1	0	3	0	0	0
Grant	0	0	0	0	0	0	0
Hennepin	221	160	0	37	15	9	0
Houston	0	0	0	0	0	0	0
Hubbard	3	2	1	0	0	0	0
Isanti	6	3	2	0	0	1	0
Itasca	12	7	2	2	0	0	1

County	Total Number of Cases Charged	Convicted of Offense Listed in §609.11, Subd. 9		Conviction Offense Not Listed in M.S. § 609.11	Acquitted on all Charges	Dismissed on all Charges	Other
		Firearm Established	Firearm Not Established				
Jackson	0	0	0	0	0	0	0
Kanabec	0	0	0	0	0	0	0
Kandiyohi	5	3	0	2	0	0	0
Kittson	2	0	2	0	0	0	0
Koochiching	3	0	0	3	0	0	0
Lac Qui Parle	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Lake of the Woods	0	0	0	0	0	0	0
LeSueur	0	0	0	0	0	0	0
Lincoln	1	0	0	1	0	0	0
Lyon	4	3	1	0	0	0	0
McLeod	1	1	0	0	0	0	0
Mahnomen	2	1	0	1	0	0	0
Marshall	0	0	0	0	0	0	0
Martin	4	0	0	3	0	1	0
Meeker	0	0	0	0	0	0	0
Mille Lacs	2	1	1	0	0	0	0
Morrison	5	4	0	1	0	0	0
Mower	1	0	1	0	0	0	0
Murray	1	0	0	1	0	0	0
Nicollet	2	1	0	0	1	0	0
Nobles	0	0	0	0	0	0	0
Norman	1	0	0	1	0	0	0
Olmsted	22	5	1	10	0	6	0
Otter Tail	4	3	0	0	0	1	0
Pennington	3	2	1	0	0	0	0
Pine	2	1	0	1	0	0	0
Pipestone	1	1	0	0	0	0	0
Polk	5	4	0	1	0	0	0
Pope	0	0	0	0	0	0	0
Ramsey	114	93	0	4	5	12	0
Red Lake	0	0	0	0	0	0	0
Redwood	1	0	0	1	0	0	0
Renville	3	1	2	0	0	0	0

County	Total Number of Cases Charged	Convicted of Offense Listed in §609.11, Subd. 9		Conviction Offense Not Listed in M.S. § 609.11	Acquitted on all Charges	Dismissed on all Charges	Other
		Firearm Established	Firearm Not Established				
Rice	9	0	3	6	0	0	0
Rock	1	1	0	0	0	0	0
Roseau	1	0	0	1	0	0	0
St. Louis	24	15	0	7	1	1	0
Scott	3	2	0	1	0	0	0
Sherburne	5	1	0	4	0	0	0
Sibley	0	0	0	0	0	0	0
Stearns	11	10	0	1	0	0	0
Steele	0	0	0	0	0	0	0
Stevens	1	0	0	0	0	0	1
Swift	0	0	0	0	0	0	0
Todd	1	0	0	1	0	0	0
Traverse	0	0	0	0	0	0	0
Wabasha	2	2	0	0	0	0	0
Wadena	5	0	4	1	0	0	0
Waseca	1	1	0	0	0	0	0
Washington	20	12	0	3	0	3	2
Watonwan	0	0	0	0	0	0	0
Wilkin	0	0	0	0	0	0	0
Winona	4	4	0	0	0	0	0
Wright	0	0	0	0	0	0	0
Yellow Medicine	3	0	0	3	0	0	0
Total	639	423	25	124	22	39	6

County Attorney Report on Criminal Cases Involving Firearms

Mandatory Minimum Sentences Imposed and Executed Cases Disposed from July 1, 1998 to July 1, 1999

County	Convicted of Offense Listed in §609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Aitkin	0	0	0
Anoka	17	5	12
Becker	4	3	1
Beltrami	0	0	0
Benton	2	2	0
Big Stone	0	0	0
Blue Earth	6	2	4
Brown	0	0	0
Carlton	1	1	0
Carver	2	2	0
Cass	5	5	0
Chippewa	0	0	0
Chisago	2	1	1
Clay	4	3	1
Clearwater	1	0	1
Cook	1	1	0
Cottonwood	1	0	1
Crow Wing	1	0	1
Dakota	27	14	13
Douglas	1	1	0
Faribault	3	3	0
Fillmore	0	0	0
Freeborn	0	0	0
Goodhue	1	1	0
Grant	0	0	0
Hennepin	160	117	43
Houston	0	0	0
Hubbard	2	0	2
Isanti	3	2	1
Itasca	7	7	0

County	Convicted of Offense Listed in §609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Jackson	0	0	0
Kanabec	0	0	0
Kandiyohi	3	3	0
Kittson	0	0	0
Koochiching	0	0	0
Lac Qui Parle	0	0	0
Lake	0	0	0
Lake of the Woods	0	0	0
LeSueur	0	0	0
Lincoln	0	0	0
Lyon	3	2	1
McLeod	1	1	0
Mahnomen	1	1	0
Marshall	0	0	0
Martin	0	0	0
Meeker	0	0	0
Mille Lacs	1	1	0
Morrison	4	1	3
Mower	0	0	0
Murray	0	0	0
Nicollet	1	1	0
Nobles	0	0	0
Norman	0	0	0
Olmsted	5	2	3
Otter Tail	3	2	1
Pennington	2	2	0
Pine	1	0	1
Pipestone	1	1	0
Polk	4	1	3
Pope	0	0	0
Ramsey	93	70	23
Red Lake	0	0	0
Redwood	0	0	0

County	Convicted of Offense Listed in §609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Renville	1	1	0
Rice	0	0	0
Rock	1	0	1
Roseau	0	0	0
St. Louis	15	10	5
Scott	2	2	0
Sherburne	1	1	0
Sibley	0	0	0
Stearns	10	8	2
Steele	0	0	0
Stevens	0	0	0
Swift	0	0	0
Todd	0	0	0
Traverse	0	0	0
Wabasha	2	1	1
Wadena	0	0	0
Waseca	1	0	1
Washington	12	9	3
Watsonwan	0	0	0
Wilkin	0	0	0
Winona	4	4	0
Wright	0	0	0
Yellow Medicine	0	0	0
Total	423	294	129

609.11 MINIMUM SENTENCES OF IMPRISONMENT

Subdivision 1. Commitments without minimums. All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

Subd. 2. Repealed, 1978 c 723 art 2 s 5

Subd. 3. Repealed, 1981 c 227 s 13

Subd. 4. Dangerous weapon. Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than three years nor more than the maximum sentence provided by law.

Subd. 5. Firearm. (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

Subd. 5a. Drug offenses. Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum sentence for a felony violation of chapter 152 and is also subject to this section, the minimum sentence imposed under this section shall be consecutive to that imposed under chapter 152.

Subd. 6. No early release. Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

Subd. 7. Prosecutor shall establish. Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Subd. 8. Motion by prosecutor. (a) Except as otherwise provided in paragraph (b), prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentences established by this section. The motion shall be accompanied by a statement on the record of the reasons for it. When

presented with the motion, or on its own motion, the court may sentence the defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so. A sentence imposed under this subdivision is a departure from the sentencing guidelines.

(b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of an offense listed in subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

Subd. 9. Applicable offenses. The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree;

assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Subd. 10. Report on criminal cases involving a firearm. Beginning on July 1, 1994, every county attorney shall collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm:

- (1) whether the case was charged or dismissed;
- (2) whether the defendant was convicted of the offense or a lesser offense; and
- (3) whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court.

No later than July 1 of each year, beginning on July 1, 1995, the county attorney shall forward this information to the sentencing guidelines commission upon forms prescribed by the commission.

Firearms Report [Form]: County Attorney Report on Criminal Cases Involving Firearms

M.S. § 609.11, subd. 10 requires that no later than July 1 of each year, every county attorney shall forward to the sentencing guidelines commission information on cases in which the defendant is alleged to have committed an offense listed in M.S. § 609.11, subd. 9. Please report on cases that were disposed of in the time period indicated. **Do not include cases that were pending during that time period.** Please consult reverse side for further instructions.

County: _____

Criminal Complaints Disposed of from July 1, _____ to July 1, _____.

Completed by: _____ Telephone Number: () _____

I. CHARGING

CASES CHARGED WHERE REPORTING IS REQUIRED
of cases =

CASES <u>NOT</u> CHARGED WHERE REPORTING IS REQUIRED
of cases =

↓ Only cases in this box
should be carried down
to Table II.

II. CASE OUTCOME: Sum of Table II = total of "CASES CHARGED" box above

CONVICTED OF OFFENSE LISTED IN SUBD. 9; FIREARM ESTABLISHED ON THE RECORD	CONVICTED OF OFFENSE LISTED IN SUBD. 9; FIREARM <u>NOT</u> ESTABLISHED ON THE RECORD	CONVICTED OF OFFENSE NOT LISTED IN SUBD. 9	ACQUITTED ON ALL CHARGES	ALL CHARGES DISMISSED	OTHER
# of cases =	# of cases =	# of cases =	# of cases =	# of cases =	# of cases =

↓ Only cases in
this box should
be carried down
to Table III.

III. SENTENCES FOR CASES REQUIRING MANDATORY MINIMUM UNDER 609.11:

Sum of Table III = Total in "FIREARM ESTABLISHED ON RECORD" box above

MANDATORY MINIMUM SENTENCE IMPOSED AND EXECUTED
of cases =

MANDATORY MINIMUM SENTENCE WAIVED
of cases =

Firearms Report:
County Attorney Report on Criminal Cases Involving Firearms

County _____

Criminal Complaints Disposed of from July 1____ to July 1____

Completed by _____ Telephone Number _____

Person to contact
if we have
questions

I. CHARGING

A

of Cases =

	B
# of Cases =	

Boxes C thru H
equal box A

II. CASE OUTCOME

(part of XXXXX XXXX XXXX)

<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H</i>
					OTHER
# of Cases =	# of Cases =	# of Cases =	# of Cases =	# of Cases =	# of Cases =

Firearm must be a "finding of fact"

Boxes I and J
equal box C

III. SENTENCES FOR CASES REQUIRING MANDATORY MINIMUM UNDER 609.11

[illegible]

	1
# of Cases =	

J

of
Cases =

Prison for at least the mandatory minimum duration

Example:
Cases that resulted in a
"Stay of Adjudication"

